



February 22, 2001

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## HOUSE BILL No. 1248

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DIGEST OF HB 1248 (Updated February 21, 2001 1:05 PM - DI 73)

**Citations Affected:** IC 27-1; IC 34-13; noncode.

**Synopsis:** Tort claims against governmental entities. Increases the combined aggregate liability of all governmental entities and public employees under the law concerning tort claims against governmental entities and public employees from \$300,000 to \$700,000 for injury to or death of one person in any one occurrence. Increases the claim limits for policies provided to participating political subdivisions by the political subdivision risk management commission from \$300,000 to \$700,000 for injuries, death, or damage suffered by any one person.

**Effective:** January 1, 2002.

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### Avery, Ulmer, Steele, Tincher

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January 9, 2001, read first time and referred to Committee on Judiciary.  
February 14, 2001, reported — Do Pass; referred to Committee on Ways and Means,  
pursuant to Rule 127.  
February 21, 2001, amended, reported — Do Pass.

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HB 1248—LS 6319/DI 69+



February 22, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1248

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 27-1-29-14 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 14. (a) In order to  
3       be eligible for payment under this chapter, a liability of a political  
4       subdivision must arise out of a claim based upon an act or omission  
5       that takes place while the political subdivision is a member of the fund.

6       (b) The maximum amount payable from the fund for any liability,  
7       whether or not it is covered under IC 34-13-3 (or IC 34-4-16.5 before  
8       its repeal), is:

9       (1) ~~three~~ **seven** hundred thousand dollars ~~(\$300,000)~~ **(\$700,000)**

10       for injury, death, or damage suffered by any one (1) person as a  
11       result of the act or omission from which the liability arises; and

12       (2) one million dollars (\$1,000,000) for all injury, death, or  
13       damage suffered by all persons as a result of the act or omission  
14       from which the liability arises.

15       (c) No amount may be paid from the fund in respect of punitive  
16       damages paid by or assessed against a member of the fund.

17       (d) No amount may be paid from the fund in the case of a liability

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based upon bodily injury or property damage arising out of the discharge, dispersal, release, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, waste materials, or other irritants, contaminants, or pollutants into or upon land, the atmosphere, or any watercourse or body of water unless the discharge, dispersal, release, or escape:

(1) is caused by an act or omission of a political subdivision that is a member of the fund; and

(2) occurs as a result of:

(A) a household hazardous waste; or

(B) a conditionally exempt small quantity generator (as described in 40 CFR 261.5(a);

collection, disposal, or recycling project conducted by or controlled by the political subdivision.

(e) The commissioner may pay a liability of a member of the fund in a series of annual payments. The amount of any annual payment under this subsection must be one hundred thousand dollars (\$100,000) or more, except for the final payment in a series of payments.

(f) The commission may negotiate a structured settlement of any claim.

(g) As used in this section, "household hazardous waste" means solid waste generated by households that consists of or contains a material that is:

(1) ignitable, as described in 40 CFR 261.21;

(2) corrosive, as described in 40 CFR 261.22;

(3) reactive, as described in 40 CFR 261.23; or

(4) toxic, as described in 40 CFR 261.24.

SECTION 2. IC 34-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 4. The combined aggregate liability of all governmental entities and of all public employees, acting within the scope of their employment and not excluded from liability under section 3 of this chapter, does not exceed ~~three~~ **seven** hundred thousand dollars (~~\$300,000~~) (**\$700,000**) for injury to or death of one (1) person in any one (1) occurrence and does not exceed five million dollars (\$5,000,000) for injury to or death of all persons in that occurrence. A governmental entity is not liable for punitive damages.

SECTION 3. [EFFECTIVE JANUARY 1, 2002] **This act applies only to a cause of action that accrues after December 31, 2001.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1248, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STURTZ, Chair

Committee Vote: yeas 9, nays 2.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1248, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-29-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 14. (a) In order to be eligible for payment under this chapter, a liability of a political subdivision must arise out of a claim based upon an act or omission that takes place while the political subdivision is a member of the fund.

(b) The maximum amount payable from the fund for any liability, whether or not it is covered under IC 34-13-3 (or IC 34-4-16.5 before its repeal), is:

- (1) ~~three~~ **seven** hundred thousand dollars (~~\$300,000~~) (**\$700,000**) for injury, death, or damage suffered by any one (1) person as a result of the act or omission from which the liability arises; and
- (2) one million dollars (\$1,000,000) for all injury, death, or damage suffered by all persons as a result of the act or omission from which the liability arises.

(c) No amount may be paid from the fund in respect of punitive damages paid by or assessed against a member of the fund.

(d) No amount may be paid from the fund in the case of a liability based upon bodily injury or property damage arising out of the discharge, dispersal, release, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, waste materials, or other irritants, contaminants, or pollutants into or upon land, the atmosphere, or any watercourse or body of water unless the discharge, dispersal, release, or escape:

- (1) is caused by an act or omission of a political subdivision that is a member of the fund; and
- (2) occurs as a result of:
  - (A) a household hazardous waste; or
  - (B) a conditionally exempt small quantity generator (as described in 40 CFR 261.5(a); collection, disposal, or recycling project conducted by or controlled by the political subdivision.

(e) The commissioner may pay a liability of a member of the fund in a series of annual payments. The amount of any annual payment under this subsection must be one hundred thousand dollars (\$100,000) or more, except for the final payment in a series of payments.

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(f) The commission may negotiate a structured settlement of any claim.

(g) As used in this section, "household hazardous waste" means solid waste generated by households that consists of or contains a material that is:

- (1) ignitable, as described in 40 CFR 261.21;
- (2) corrosive, as described in 40 CFR 261.22;
- (3) reactive, as described in 40 CFR 261.23; or
- (4) toxic, as described in 40 CFR 261.24."

Page 1, line 6, delete "one million two" and insert "**seven**".

Page 1, line 6, delete "fifty".

Page 1, line 7, delete "(\$1,250,000)" and insert "**(\$700,000)**".

Page 1, line 8, reset in roman "five".

Page 1, line 8, delete "ten".

Page 1, line 8, reset in roman "(\$5,000,000)".

Page 1, line 9, delete "(\$10,000,000)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1248 as introduced.)

BAUER, Chair

Committee Vote: yeas 22, nays 0.

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